

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16088
[REDACTED])	
)	DECISION
Petitioner.)	
_____)	

On July 13, 2001, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable year 1998 in the total amount of \$366.

On November 16, 2001, the taxpayer filed an appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Income Tax Audit Bureau (Bureau) received information showing the taxpayer sold real property in Idaho in 1998. The Bureau researched the Tax Commission's records and found the taxpayer did not file an Idaho individual income tax return for the taxable year 1998. Idaho Code section 63-3026A(3)(ii) states that income shall be considered derived from or relating to sources within Idaho when such income is attributable to or resulting from the ownership or disposition of any interest in real or tangible personal property located in Idaho.

The Bureau sent the taxpayer letters asking the taxpayer about the sale of the Idaho property and his requirement to file an Idaho income tax return. The taxpayer did not respond to the Bureau's letters. The Bureau determined the taxpayer was required to file an Idaho income tax return, so it prepared a return for the taxpayer and sent him a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination. The taxpayer stated he needed additional information and the relevant tax codes in order to resolve the matter. The Bureau held

the matter open to allow the taxpayer the additional time he requested to provide information and documentation. However, the taxpayer failed to provide any additional information.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond. The Tax Commission sent a follow-up letter to the taxpayer, but he still failed to respond. Therefore, the Tax Commission decided the matter based upon the information available.

The Bureau mailed the taxpayer a Notice of Deficiency Determination for the 1998 tax year on July 13, 2001. The Notice of Deficiency Determination was sent to the taxpayer via certified mail as stated in Idaho Code section 63-3045. On July 23, 2001, the Tax Commission received the certified mailing back stating that the taxpayer refused the mail. On July 24, 2001, the Bureau sent the taxpayer a letter stating what was in the certified mail that he refused and included a copy of the Notice of Deficiency Determination and a copy of the taxpayer's appeal rights. The letter also restated the date by which the taxpayer must appeal or protest the Notice of Deficiency Determination in order to protect his appeal rights.

Idaho Code section 63-3045(1)(a) states that if a taxpayer disagrees with a Notice of Deficiency Determination, sent by certified or registered mail by the Tax Commission, the taxpayer must, within 63 days after the notice is mailed, file a written protest with the State Tax Commission. The taxpayer responded to the Bureau's Notice of Deficiency Determination by telephone on September 14, 2001, at 5:00 PM. The 63 days from the date of mailing of the Notice of Deficiency Determination was September 14, 2001. The Tax Commission did not receive the taxpayer's written protest until November 16, 2001.

Idaho Code section 63-3045(5) states that if the taxpayer does not file a protest with the State Tax Commission within the prescribed time, the deficiency shall be assessed and shall

become due and payable upon notice and demand from the State Tax Commission. The taxpayer did not respond, in writing, within the prescribed time stated in Idaho Code section 63-3045(1)(a). The taxpayer did contact the Tax Commission via the telephone; however, there was no indication that the taxpayer was going to appeal or that he asked what was needed to appeal the determination.

The taxpayer failed to appeal the Notice of Deficiency Determination by the date prescribed in the Idaho Code. Therefore, the Tax Commission upholds the Bureau's determination.

WHEREFORE, the Notice of Deficiency Determination dated July 13, 2001, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$ 254	\$ 64	\$ 70	\$ 388

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2002, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

[Redacted]
